IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2007

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVIRAJA PANDIAN
and
THE HONOURABLE MRS.JUSTICE CHITRA VENKATARAMAN

W.A.No.3133 of 2002

Tamil Nadu State Transport Corpn.
(Salem Division II) Ltd.
(formerly known as Annai Sathya
Transport Corporation Ltd.)
rep. by the Managing Director
Bharathipuram, Salem Main Road
Dharmapuri-636 705. .. Appellant
(Cause Title accepted vide order of
Court dated 31.3.2002 made in
WAMP 110/2002)

versus

1. The Regional Transport Officer
   Dharmapuri.

2. The Deputy Transport Commissioner
   Salem.

3. The Commissioner of Transport
   Chepauk, Madras-600 005. .. Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order of the learned single Judge of this Court dated 1.2.2001 made in W.P.No.7150 of 1994 presented under Article 226 of the Constitution of India praying to issue a Writ of Certiorarifiled Mandamus, calling for the records of the 3rd respondent,pertaining to the order made in proceedings R.No. 21072/D2/93 dated 14.9.1993 in confirming the order of the first and second respondents, made in proceedings R.No.12/B4/92 dated 28.9.1992 and proceedings R.No. A3/8517/92 dated 11.02.93 respectively and quash the same and direct the respondents herein to refund the tax in respect of the stage carriage bearing Registration No. TN-29-N-0128, for the period from 1-1-92 to 31-1-1992.

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For appellant : Mr.V.R.Kamalanathan
For respondents : Mr.P.Subramanian
Government Advocate

JUDGMENT

(Judgment of the Court was delivered by K.RAVIRAJA PANDIAN,J.)

Learned counsel for the respondents produces the judgment of the Supreme Court reported in (2004) 6 SCC 431 (MAHANAGAR TELEPHONE NIGAM LTD. Vs. CHAIRMAN, CENTRAL BOARD, DIRECT TAXES), to the effect that the appeal is not maintainable, wherein, the Supreme Court held as follows:

> " Undoubtedly, the right to enforce a right in a court of law cannot be effaced. However, courts are overburdened with a large number of cases. The majority of such cases pertain to government departments and/or public sector undertakings. As is stated in Chief Conservator of Forests case, (2003) 3 SCC 472 it was not contemplated by the framers of the Constitution or CPC that two departments of a State or the Union of India and/or a department of the Government and a public sector undertaking fight a litigation in a court of law. Such a course is detrimental to public interest. The mechanism set up by the Supreme Court is not only to conciliate between the government departments but also to ensure that frivolous disputes do not come before courts without clearance from the High-Powered Committee. If it can, the High-Powered Committee will resolve the dispute. If the dispute is not resolved the Committee would undoubtedly give clearance. However, there could also be frivolous litigation proposed by a department of the Government or a public sector undertaking. This could be prevented by the High-Powered Committee. In such cases there is no question of resolving the dispute. The Committee only has to refuse permission to litigate. No right of the department/public sector undertaking is affected in such a case. The litigation of a frivolous nature must not be brought to court. The Committee is constituted of high-placed officers of the Government, who do not have an interest in the dispute, it is thus expected that their decision will be fair and honest. Even if the department/public sector undertaking finds the decision unpalatable, discipline requires that they abide by it. "

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In view of the above decision, the writ appeal is dismissed as not maintainable. No costs.

ksv

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To:

1. The Regional Transport Officer
   Dharmapuri.

2. The Deputy Transport Commissioner
   Salem.

3. The Commissioner of Transport
   Chepauk, Madras-600 005.

+ One cc to Mr. V.R. Kamalanathan, Advocate SR 64587

VSV (co)

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